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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

February 9, 2007

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Maui

Consent to Financing Agreement and Estoppel  
Certificate, General Lease No. S-4212, Western Apartment  
Supply & Maintenance Co., dba Maui Oceanfront Inn, Lessee,  
Kihei, Wailuku, Maui, Tax Map Key: (2) 3-9-04:29.

APPLICANT AND REQUEST:

Western Apartment Supply & Maintenance Co., dba Maui Oceanfront  
Inn, a California corporation, requesting consent to security  
agreement from La Jolla Bank, Lender, in an amount not to exceed  
\$12,500,000.00.

LEGAL REFERENCE:

Section 171-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kamaole situated at Kihei,  
Wailuku, Maui, identified by Tax Map Key: (2) 3-9-04:29, as shown  
on the attached map labeled Exhibit A.

AREA:

1.119 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO X

CHARACTER OF USE:

Apartment-motel cottages and accessory uses. "Accessory" uses  
shall include a restaurant-bar and other service facilities.

TERM OF LEASE:

65 years, commencing on September 4, 1968 and expiring on September 3, 2033. Last rental reopening occurred on September 4, 2003; next rental reopening is scheduled for September 4, 2013.

ANNUAL RENTAL:

\$87,739.20, paid semi-annually.

USE OF LOAN PROCEEDS:

The loan will be used to pay off existing mortgages, taxes, and encumbrances. It will also be used to pay the balance of the security deposit due to the Department for this Lease. Any excess funds from the loan will be held in a line of credit. The loan payments will be as follows:

1. Cost of obtaining the loan - \$125,000.00
2. Real property taxes to the County of Maui - \$166,623.35
3. La Jolla Loans, Inc. - \$10,500,000.00
4. John Santero - \$482,880.79
5. State of Hawaii, Dept. of Taxation for G.E. Taxes and Tourist Accomodation Taxes - \$142,336.42
6. Internal Revenue Service, unpaid income taxes - \$22,340.30
7. State of Hawaii, Dept. of Taxation for Unemployment Insurance - \$11,155.77
8. State of Hawaii, Dept. of Land and Natural Resources for balance of security deposit - \$58,392.00
9. Marc Hotels & Resorts - \$248,800.00
10. Chris Hart & Associates - \$14,887.93
11. Ing, Horikawa, Jorgensen & Stewart - \$15,894.13
12. Reinwald, Playdon & O'Connor - \$155,043.86
13. Sumie Toyashima - \$40,000.00
14. Thomas R. Cole - \$97,767.99
15. Smaha Law Group - \$165,000.00
16. United States Bankruptcy Trustee - \$17,250.00
17. Additional escrow costs

REMARKS:

Applicant is currently under U.S. Bankruptcy Court for the District of Hawaii (Chapter 11) protection. On January 17, 2007, Applicant's Motion to Amend the Minute Order of the Court entered On December 11, 2006 on Debtor's Motion to Obtain Approval for Secured Financing in a Secured Position, to Abandon the Maui Oceanfront Inn to Western Apartment Supply and Maintenance Company and to Dismiss Debtor's Chapter 11 Bankruptcy Case Subject to Certification of Payments was heard by the Bankruptcy Court. Under the motion the Applicant asked that the order allowing the Applicant to obtain secured financing previously approved by the Court be amended to allow for an increased amount of the loan. The purpose of the loan was to allow the Debtor to pay off its previous mortgage to La Jolla Loans, Inc. and to pay off its secured and unsecured creditors. On January 29, 2007,

the Bankruptcy Court approved the amendment of its previous order and the dismissal of the bankruptcy case subject to certification that all represented payments had been made.

In connection with the new secured financing, the Applicant is requesting the Board to consent to the new mortgage and to execute an estoppel certificate for use by the new mortgagee, La Jolla Bank.

RECOMMENDATION: That the Board:

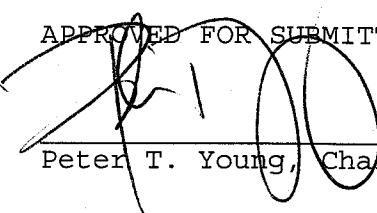
- A. Consent to the security agreement between Western Apartment Supply & Maintenance Co. dba Maui Oceanfront Inn, Borrower, and La Jolla Bank, Lender, subject to the following:
  - 1. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Lessee shall maintain records of loan expenditures, which may be inspected by the Department;
  - 2. The standard terms and conditions of the most current consent to security agreement form, as may be amended from time to time;
  - 3. Review and approval by the Department of the Attorney General; and
  - 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Authorize the execution of an Estoppel Certificate subject to the following:
  - 1. Review and approval by the Department of the Attorney General; and
  - 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Charlene E. Unoki  
Assistant Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

ZONE 2

SEC. 1

PLAT 10

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Landco - Resort Developers  
200 Acs.  
MANA KAI - MAUI

**49** (Towa Shinyo Maui, Inc.)  
Rev. Pmt. 5-6814  
"FLOATING PARCEL"

8 "Kilmer Switzer"  
Switzer Development

29 Station of Maryland  
National Institute of Standards and Technology

Rev. Pmt 5-5200 over 0.338 Ac.  
 Hill Condominiums  
 Rev. Pmt 5-5775 over 1.205 Ac.

Rev. Post 5-571

**Casey**

# EXHIBIT A